IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1990 of 2015 (W)

PETITIONER(S) :

PARLE BISCUITS PVT.LTD.,
BRANCH AT: VIII/230C, PARAKKAL ESTATE,
VAZHAKKULAM, AVT ROAD, ALUVA-683 105.
(REPRESENTED BY THE AUTHORIZED SIGNATORY
J.M.GOMEZ).

BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR

RESPONDENT(S) :
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1. INTELLIGENCE INSPECTOR,
SQUAD NO.III, COMMERCIAL TAXES,
MATTANCHERRY MINI CIVIL STATION, ALUVA.
CAMP AT: COMMERCIAL TAXES CHECK-POST, WALAYAR- 678 624.

2. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAXES, CHECK-POST,
WALAYAR- 678 624.

3. STATE OF KERALA REPRESENTED BY SECRETARY
TO GOVERNMENT, TAXES DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

BY GOVERNMENT PLEADER SMT.LILLY.K.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 1990 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LATEST RETURN FOR THE MONTH OF DECEMBER 2014 FILED BY THE PETITIONER BEFORE THE ASSESSING AUTHORITY.

EXHIBIT P2: TRUE COPY OF THE INVOICE BEARING NO.1808/1163 DATED 13.01.2015 FROM THE PETITIONER'S FACTORY IN MEDKAL, TELENGANA.

EXHIBIT P3: TRUE COPY OF THE DETAILS OF E TOKEN UPLOADED BY THE CONSIGNOR AND ACCOMPANYING THE TRANSPORT.

EXHIBIT P4: TRUE COPY OF THE NOTICE NO.OR 151/14-15 DATED 15.01.2015 ISSUED BY 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P5: TRUE COPY OF THE REPLY DATED 16.01.2015 FILED BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.1990 of 2015

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Dated this the 20th day of January, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act (hereinafter referred to as 'the KVAT Act)' is aggrieved by Ext.P4 notice issued to him detaining a consignment of potato wafers that was being transported from Andhra Pradesh to Kerala at his instance. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.K.N.Sreekumaran, the learned counsel for the petitioner and Smt.Lilly K.T, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P4 detention notice it is seen that the 8F declaration that was produced showed that the goods that were being transported were biscuits whereas what was actually being transported was potato wafers. In that view of the matter, the suspicion on the part of the respondents cannot be said to be unjustified. I take note, however, of the fact that the petitioner is a registered dealer in the State and also that the petitioner had since offered an explanation for the discrepancy in the declaration, and direct the 1st respondent to release the consignment and the vehicle on the petitioner paying 25% of the amount demanded as security deposit in Ext.P4 notice, and executing a simple bond without sureties for the balance amount therein before the 1st respondent.

(ii) The respondents shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/